

## § 806.18

not a final action of the Commission until the project sponsor submits and the Commission takes final action on an individual approval application.

[80 FR 76858, Dec. 11, 2015]

### § 806.18 Approval modifications.

(a) *General.* A project sponsor shall submit an application for modification of a current approval prior to making a change in the design, operational plans, or use as presented in the application upon which the approval was originally issued, and that will affect the terms and conditions of the current approval.

(b) *Applications for modification.* A project sponsor may apply for a modification of a current approval by submitting an application for modification to the Commission.

(c) *Minor modifications.* The following are minor modifications:

- (1) Correction of typographical errors;
- (2) Changes to monitoring or metering conditions;
- (3) Addition of sources of water for consumptive use;
- (4) Changes to the authorized water uses;
- (5) Changes to conditions setting a schedule for developing, implementing, and/or reporting on monitoring, data collection and analyses;
- (6) Changes to the design of intakes;
- (7) Increases to total system limits that were established based on the projected demand of the project; and
- (8) Modifications of extraction well network used for groundwater remediation systems.

(d) *Major modifications.* Major modifications are changes not considered to be minor modifications. Major modifications may include, but are not limited to:

- (1) Increases in the quantity of water withdrawals, consumptive uses or diversions;
- (2) Increases to peak day consumptive water use;
- (3) Increases to the instantaneous withdrawal rate or changes from a single withdrawal rate to a varied withdrawal rate;
- (4) Changes affecting passby flow requirements; and

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(5) Changes that have the potential for adverse impacts to water resources or competing water users.

(e) *Notice and approval.* (1) Applications for modifications are subject to the notice requirements of § 806.15.

(2) The Commission or Executive Director may approve, approve with conditions or deny an application for minor modification, or direct that an application for major modification be made.

(3) The Commission may approve, approve with conditions or deny an application for major modification.

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### Subpart C—Standards for Review and Approval

#### § 806.20 Purpose of this subpart.

The purpose of this subpart is to set forth general standards that shall be used by the Commission to evaluate all projects subject to review and approval by the Commission pursuant to §§ 806.4, 806.5 and 806.6, and to establish special standards applicable to certain water withdrawals, consumptive uses and diversions. This subpart shall not be construed to limit the Commission's authority and scope of review. These standards are authorized under Sections 3.4(2), 3.4(8), 3.4(9), and 3.10 of the compact and are based upon, but not limited to, the goals, objectives, guidelines and criteria of the comprehensive plan.

#### § 806.21 General standards.

(a) A project shall not be detrimental to the proper conservation, development, management, or control of the water resources of the basin.

(b) The Commission may modify and approve as modified, or may disapprove, a project if it determines that the project is not in the best interest of the conservation, development, management, or control of the basin's water resources, or is in conflict with the comprehensive plan.

(c) *Disapprovals—other governmental jurisdictions.* (1) The Commission may suspend the review of any application under this part if the project is subject

to the lawful jurisdiction of any member jurisdiction or any political subdivision thereof, and such member jurisdiction or political subdivision has disapproved or denied the project. Where such disapproval or denial is reversed on appeal, the appeal is final, and the project sponsor provides the Commission with a certified copy of the decision, the Commission shall resume its review of the application. Where, however, an application has been suspended hereunder for a period greater than three years, the Commission may terminate its review. Thereupon, the Commission shall notify the project sponsor of such termination and that the application fee paid by the project sponsor is forfeited. The project sponsor may reactivate the terminated docket by reapplying to the Commission, providing evidence of its receipt of all necessary governmental approvals and, at the discretion of the Commission, submitting new or updated information.

(2) The Commission may modify, suspend or revoke a previously granted approval if the project sponsor fails to obtain or maintain the approval of a member jurisdiction or political subdivision thereof having lawful jurisdiction over the project.

**§ 806.22 Standards for consumptive uses of water.**

(a) The project sponsors of all consumptive water uses subject to review and approval under § 806.4, § 806.5 or § 806.6 of this part shall comply with this section.

(b) *Mitigation.* All project sponsors whose consumptive use of water is subject to review and approval under § 806.4, § 806.5 or § 806.6 of this part shall mitigate such consumptive use. Except to the extent that the project involves the diversion of the waters out of the basin, public water supplies shall be exempt from the requirements of this section regarding consumptive use; provided, however, that nothing in this section shall be construed to exempt individual consumptive users connected to any such public water supply from the requirements of this section. Mitigation may be provided by one, or a combination of the following:

(1) During low flow periods as may be designated by the Commission for consumptive use mitigation.

(i) Reduce withdrawal from the approved source(s), in an amount equal to the project's total consumptive use, and withdraw water from alternative surface water storage or aquifers or other underground storage chambers or facilities approved by the Commission, from which water can be withdrawn for a period of 90 days without impact to surface water flows.

(ii) Release water for flow augmentation, in an amount equal to the project's total consumptive use, from surface water storage or aquifers, or other underground storage chambers or facilities approved by the Commission, from which water can be withdrawn for a period of 90 days without impact to surface water flows.

(iii) Discontinue the project's consumptive use, except that reduction of project sponsor's consumptive use to less than 20,000 gpd during periods of low flow shall not constitute discontinuance.

(2) Use, as a source of consumptive use water, surface storage that is subject to maintenance of a conservation release acceptable to the Commission. In any case of failure to provide the specified conservation release, such project shall provide mitigation in accordance with paragraph (3), below, for the calendar year in which such failure occurs, and the Commission will re-evaluate the continued acceptability of the conservation release.

(3) Provide monetary payment to the Commission, for annual consumptive use, in an amount and manner prescribed by the Commission.

(4) Implement other alternatives approved by the Commission.

(c) *Determination of manner of mitigation.* The Commission will, in its sole discretion, determine the acceptable manner of mitigation to be provided by project sponsors whose consumptive use of water is subject to review and approval. Such a determination will be made after considering the project's location, source characteristics, anticipated amount of consumptive use, proposed method of mitigation and their effects on the purposes set forth in